

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION FREE CONFERENCE COMMITTEE ON HOUSE BILL 124

Call to Order: By **CHAIRMAN ROYAL JOHNSON**, on April 17, 2001 at 5:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Sen. Royal Johnson, Chairman (R)
Rep. Bob Story, Chairman (R)
Sen. Bob Keenan (R)
Rep. Jeff Mangan (D)
Sen. Emily Stonington (D)
Rep. John Esp (R)

Members Excused: None.

Members Absent: None.

Staff Present: Linda Keim, Legislative Secretary
Lee Heiman, Legislative Attorney

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: HB 124

Chairman Johnson said several members of the committee visited with **Budget Director Chuck Swysgood** before the meeting. He said he would like the budget director to give his position at this time. **Chuck Swysgood, Director Budget and Program Planning** said that his position on HB 124 had not changed from the proposal he made last week when the bill was in the Senate as to what is acceptable to his office. That proposal was to remove two bills from the process, SB 417 and HB 20, let them decline down to zero and apply the .76% growth factor to the schools, have 3% growth factor through 2005, then 2.3% growth factor. His office took into consideration the costs associated with that proposal in the out years, other costs to the state, and the fact that they are taking on the costs of district courts and welfare.

SEN. STONINGTON asked if the Governor's office supports the general concept of the bill. **Chuck Swysgood** said yes, and he has been in support of the concept of the bill also.

CHAIRMAN JOHNSON asked **REP. MANGAN** if he wanted to offer his amendments at this time. **REP. MANGAN** suggested that other amendments be moved first and then he may or may not move his.

SEN. STONINGTON moved **HB012463 to HB 124, EXHIBIT (frh86hb0124c01)**. She said the department is working on language to clarify the issue they discussed this morning, which is the way the extraordinary district court expenses get reflected in entitlement share. She indicated that description is part of her motion also.

SEN. STONINGTON moved the new description of how extraordinary district court expenses are reflected in entitlement share.

SEN. STONINGTON clarified that the current language, because they are going to delay the assumption of district courts for one year, is that in the first year of this process the local governments will be given money to cover the costs of district courts. If a district had an extraordinary court expense during the 2001 base year, that gets counted as part of their court expenditures. In the second year of this process, when the state assumes district court costs, those costs will be deducted from that counties entitlement share. The amendments say the entitlement share going out to a county will not be reduced by the amount of extraordinary costs. Those come out of a pool of \$6 million held by the judiciary, which is intended to pay for extraordinary court costs through a reimbursement process. Those should not get counted against the county's entitlement share.

CHAIRMAN JOHNSON asked for agreement that the amendment is written that way. **Judy Paynter, Department of Revenue** said that is correct.

SEN. STONINGTON moved amendment **HB012463 as amended. Motion passes unanimously, 6-0.**

SEN. STONINGTON moved **HB012466 to HB 124, EXHIBIT (frh86hb0124c02)**. She said it is the concept of having the revenue funds show as part of reserve funds, so they don't show up as unreserved funds in an ending fund balance.

Judy Paynter explained **HB012466**. She referred to the tan bill, page 239, section 251, Reservation of Funds. The amendment broke that down in sections that state the amounts that must be reserved from the state general fund for local government entitlement share payments for years 2002 through 2005.

SEN. STONINGTON said her amendment is offered only because it gives more protection to local governments to not have the surplus money coming in during the first year that is to be appropriated out over the first four years show up as part of an unreserved fund in the general fund balance. It is offered for discussion. It would show up as reserved funds.

REP. KEENAN said it is not a problem, but with HB 41 they are trying to remove earmarking and eliminate separate accounts.

SEN. STONINGTON said this is not a special fund, it will be in the general fund. It just shows as already being committed because of statutory obligations. It will definitely be spent. She asked **Judy Paynter** how this would work in an audit. What is the difference between an earmarked fund and a reserved fund?

Judy Paynter said an earmarked fund is one that would not be in the general fund, it would be in a state special revenue account and is earmarked only for a particular thing. This money is built into the state general fund and it will show in the fund balance. The fund balance has two components; a reserved component which means the money is set aside for certain things, and it has an unreserved component. That is the one you look at to determine the available beginning balance. This fund is a reserved amount that goes down by the difference in what you need. For example \$11.8 million in 2002 is decreased by \$2 million in fiscal year 2003 and goes down to \$9.8 million as you take that money out.

CHAIRMAN JOHNSON asked if you know \$2 million is going out every year. **Judy Paynter** referred to the spreadsheet. The difference between revenue and expenditures is estimated to be \$2 million.

CHAIRMAN JOHNSON said if that number were larger in any of these years, would it change these numbers too. **Judy Paynter** said she hoped these are not tracked individually, that it is set up and this is how it flows. **CHAIRMAN JOHNSON** asked if that is one reason why we should not set it up in a special place. Should we just put it in the general fund, and account for it as it comes out. **Judy Paynter** said yes.

REP. STORY asked why it was broken down by years and not by bienniums, because once you do a biennial budget you are committed to that for the biennium. Also, there is a statutory appropriation funding mechanism in the bill that requires the money to be spent unless you go back into the bill and change that. Do you gain anything by putting it out there? **Judy Paynter** said it could be done by biennium; at the end of the biennium. The other question is really a committee discussion.

SEN. STONINGTON said she doesn't have strong feelings about this, but thought it might give the committee more comfort to see it in a reserved fund, rather than to see it in unreserved funds as part of the beginning and ending balance in a biennium. It would be another message to the legislature that this money has already been promised, so you can't spend it for anything else. It doesn't do anything substantive.

SEN. KEENAN asked for other examples of reserved funds. **SEN. STONINGTON** said there is one in section 251. **SEN. KEENAN** asked **DIRECTOR SWYSGOOD** the same question. **CHUCK SWYSGOOD** said no. A similar thing was done last session with tobacco money. When we were done with the session, \$28 million of the general fund balance was set aside. But general fund is general fund and he doesn't see how you reserve revenues beyond the biennial year in the legislature. He has no problem with where **SEN. STONINGTON** is coming from, but he does not think we are accomplishing that.

SEN. STONINGTON moved Amendment HB012466 to HB 124. Motion failed 2-4 with **SEN. STONINGTON** and **REP. MANGAN** voting Aye.

CHAIRMAN JOHNSON asked if the amendments to HB 124, second reading were finished. **Judy Paynter** said that 15-10-420 is in the form it should be in; that is really what you voted on.

REP. MANGAN said he would move a conceptual amendment. We have already passed this, haven't we? **CHAIRMAN JOHNSON** said yes, except we did not have this written down. He asked **Lee Heiman** to explain and distribute the amendment.

Lee Heiman referred to Amendment entitled "Section 1 with 3% and district court language 15-10-420 as combined", **EXHIBIT (frh86hb0124c03)**. He said it starts on page six, and this is the way it would read when it is coordinated. The changes are written in italics on page seven. **CHAIRMAN JOHNSON** asked **Judy Paynter**, Revenue Department; **Amy Carlson**, Budget Department and **Mary Whittinghill**, Montana Taxpayers Association if there were any problems with it. **Mary Whittinghill** indicated there is still a problem with it. **CHAIRMAN JOHNSON** said they may call on her later to straighten it out. He asked if it complicated her problem. **Mary Whittinghill** said it did not.

CHAIRMAN JOHNSON asked if anyone on the committee had any problem with this amendment, which had already been put on in a conceptual nature. (No one spoke up.)

REP. MANGAN said he had planned to offer a conceptual amendment to address some growth issues with schools in HB 124. It is

something he has worked with everyone on and is bringing it to this conference committee. He had two options, the first one was to put on the amendment that he had put on in Senate Tax that came out and basically went to 1.25 a biennium, then to the rate of growth with the cities and counties in the out years. Department of Revenue put those spread sheets together for him. However, after his discussion with **Director Swysgood** this afternoon and knowing some of the concerns, particularly in the out years with the rate of growth, he decided against moving that amendment. For the sake of discussion, he would move the following amendment.

REP. MANGAN moved conceptual amendment to have a growth rate for schools of 1% across the board, rather than the .76%. He said that his calculations show that across the ten year period it would cost \$7 million. Currently in the bill under the block grant, it would be \$429,788. The first year would be \$565,511, moving to \$1,136,000; \$1,713,000; \$2,296,000, out to fiscal year 2005, which puts it in line along with the money we had there that we had planned was a break even point. The major costs would come in the out years, and it would be about \$7 million for that ten year period. You would have to add an amount to this sheet that we saw this morning, the \$32,854,000 figure, add \$7 million. It would go up to approximately \$39.8 million. He asked for discussion.

SEN. KEENAN asked to clarify whether he was talking about the \$24 million number; the \$24,185,000 line on the right hand side. And in the bill we are at 3%, is that right? **REP. MANGAN** said yes, if you go across \$24,185,000 and add \$7 million it would be around \$32 million. **CHAIRMAN JOHNSON** said yes, **SEN. KEENAN** after that amendment. **REP. MANGAN** said that his other amendment, if he would have offered it, would have taken that figure from \$32 million to \$68 million. He said that he gave a lot of thought to this amendment.

REP. STORY said **REP. MANGAN** has done a lot of work to bring additional funding for the schools in this bill to get them on a growth pattern with the local governments. He said he has opposed it most of the way through, because any dollars that are put into this bill for schools just turns into local property taxes. It doesn't give schools any more spending authority, and its just non levy revenue they get in under the cap and they have to reduce millage in most cases, assuming a constant enrollment. So what you do is just turn general fund money into property tax relief at the local level, and they never intended to do that in this bill. They just wanted everyone to come out about where they were and just change the funding.

SEN. KEENAN said what you are saying is that this would be DSA money (Direct State Aid) with a reduction on the local level like we did the special session. Is that right? **REP. STORY** said no, it would not be money that showed up in the formulas. It would not be base budget money or direct state aid money, it would be non levy revenue money which goes in above the 44.7. Vehicle money and reimbursement money all go in there, then they set their mills to get up to the 80. All it does is it cuts down the amount of money that goes in that gap and reduces what we spend in guaranteed tax base and what the local property taxpayers spend on local property. He said it would not cost \$7 million, you would get part of it back in guaranteed tax base reduction. The cost would be around \$4 million.

SEN. KEENAN said the amendment that talks about the new funding formula is still in the bill, and that would have to be revised. A lot of these costs would be in the out years. The fiscal impact, particularly in the first few years would be minimal. He said he thinks this is a good compromise.

REP. MANGAN moved conceptual amendment to HB 124 to have a growth rate for schools of 1% across the board. Motion failed 2-4 with **SEN. STONINGTON** and **REP. MANGAN** voting Aye.

CHAIRMAN JOHNSON reviewed the bill, we have the 3% across the board. He asked **Judy Paynter** to tell the committee what else was in the bill. **Judy Paynter** said there is a 3% growth rate in the bill which is really not 3%, but is 7% of the growth indicator. There is funding for the district courts and you have the bill structured for that to begin July 1, 2002. You have the funding for welfare that was supported by SB 339. You have all of the streamlining, except the \$400,000 that the committee brought originally that is in this bill. You have HB 20 and SB 417 out of the bill, but you have the language back in the bill that allows them to raise their mill levies to make up for the drop in reimbursement. You have a tax that has been polished and refined in 15-10-420, the property tax cap. You have allowed the base for property tax to grow by one half the rate of inflation, and you have allowed newly taxable property for local government. You have redefined newly taxable property in this bill and cleaned up the newly taxable statutes. You have taken individual mill levy caps on programs off and provided one overall cap. You have provided for local government to take care of the special districts and get their entitlement share allocation back. You have a growth rate for schools of .76%, which is the same growth rate as they have under current law. Unfunded mandate claims - you have strengthened the mandates for the legislature to fund local government if given a mandate, called the unfunded mandates, you are limited in doing that under the law. You have

a risk amendment which was added so that if these revenue sources drop below 95% of the base they are on as we start this program and it is not due to legislative action, then local government will have some reduction in their entitlement share growth and will enter into discussions on how to mitigate them, so that all the risk does not come to the state.

REP. STORY said that a good share of the concepts have already passed the legislature in other legislation, other than the funding issues. The district court has the 15-10-420 language that has already passed. The only thing that is not clear is in the risk amendment located on page eight, line 29, where it says "an act of the legislature". He said he is not clear whether the legislature putting a referendum out is an act of the legislature or not. It says that revenue that is included in the entitlement share, which is basically vehicle, gambling, alcohol, and financial institutions revenue. If the legislature changes any of those through a legislative action, we are still required to reimburse the local governments for that. For example if we cut the alcohol tax in half, that would cost the general fund; it would not cost local government. If voters come in with an initiative and get rid of gaming, the legislature is not responsible for that. His question is, if they put a referendum out to do any of these things and the voters vote on it, who is responsible.

Lee Heiman, Legislative Attorney said a referendum is a legislative action which then substitutes the people for the Governor so it is the approving authority going to the people, instead of the Governor. A referendum is still a legislative action.

REP. STORY said that covers most of the concepts in the bill. In the end, it is not all that complicated, because most of the bill policies have already been sorted out. People voted on them with the assumption this bill was coming through and that would be their final say. The district court and the welfare bill passed, they just didn't have the funding source to make it work.

Judy Paynter said another thing is that this bill does not require them to maximize their mill levies each year or lose it. If they don't need the money, they can go without it, but if something happens and they do need to come up to the maximum, they can still do that without having levied it in the in between years.

SEN. KEENAN asked if the legislature increased the gaming tax, is the money distributed, or is that just in the general fund. Is that the state's money? **REP. STORY** said that would be the

state's money. They never assumed they would be doing any increases.

REP. MANGAN asked what the back up plan was if this failed and it had to be turned into a reimbursement. **SEN. STONINGTON** said the same amendments that got put it on before are still in existence. **REP. STORY** said if this is rejected, the committee will have to meet and get the right amendment put on before they can adjourn. **CHAIRMAN JOHNSON** said that according to the people they have talked to, the right amendment would be #2 Amendment that **SEN. ELLIOTT** offered on the floor several days ago. That would take it back to strictly a reimbursement bill. **Judy Paynter** said if we need to go there, #2 Amendment needs some refinement. **CHAIRMAN JOHNSON** asked that the amendment be prepared and refined. He said that some form of this bill had to come out of this session.

CHAIRMAN JOHNSON said they would adjourn and meet again at 12:30 P.M. **Director Swysgood** said if they go the second route with the reimbursement bill, the amendment that **SEN. ELLIOTT** put on can be adjusted and cleaned up. He said that **Greg Petesch, Director of Legal Services** previously indicated that amendment can be used to address FEMA if necessary, with a few adjustments. **CHAIRMAN JOHNSON** asked **Judy Paynter** to coordinate that.

ADJOURNMENT

Adjournment: 6:15 P.M.

SEN. ROYAL JOHNSON, Chairman

Linda Keim, Secretary

RJ/JE/

EXHIBIT (frh86hb0124cad)